

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 21,226
)	
Appeal of)	

INTRODUCTION

The petitioner appeals the decision of the Office of Vermont Health Access (OVHA) denying his request to pay for the difference in cost between a titanium frame wheelchair and a lightweight aluminum wheelchair that has been approved for coverage under Medicaid.

DISCUSSION

The petitioner is a twenty-two-year-old man who has paraplegia as a result of a spinal cord injury sustained in a car accident in 2006. He initially requested that the Department approve Medicaid coverage for a *titanium* frame manual wheelchair. The Department approved a lightweight *aluminum* frame wheelchair because the titanium frame, though stronger and marginally lighter (but considerably more expensive), was not deemed "medically necessary". This decision was affirmed by the Board in Fair Hearing No. 20,849.

Following this decision, the petitioner filed a request for OVHA's approval of an arrangement whereby he would pay the difference in price between a titanium chair and the aluminum chair approved by Medicaid. When OVHA denied this request he filed the instant appeal. OVHA maintains that such an arrangement would be unprecedented and contrary to federal and state Medicaid law and regulations.

The petitioner concedes that despite any contribution on his part toward the purchase of a titanium chair, the Department, pursuant to standard Medicaid procedures and policy, would actually own the chair. The petitioner also concedes (following the Board's decision in Fair Hearing No. 20,849) that his need for a titanium chair is not based on medical necessity, but rather on his desire to be more active in the community, particularly in educational and vocational settings.

From the outset of the proceedings in Fair Hearing No. 20,849 (well over a year ago) the hearing officer has suggested to the petitioner that he seek funding for a titanium chair through vocational rehabilitation. To date, there is no indication that the petitioner has done so (or, if he has, that he has pursued such a request to a reasonable legal conclusion).

The Board has repeatedly held that OVHA is not required to provide Medicaid funding for any item that is not primarily medical in nature. See e.g. Fair Hearing No. 16,432. The petitioner cites no law or precedent that would *require* the Department to approve the coverage and ownership arrangement he proposes. It appears that the most the petitioner can reasonably argue at this time is that the Department has the discretion to at least *consider* such an arrangement, and that the Department's refusal to do so constitutes an abuse of that discretion. However, it strikes the hearing officer that consideration by the Board of this issue is, at best, premature.

Unless and until the petitioner can at least demonstrate that he has reasonably pursued and exhausted alternative sources of funding for a titanium chair, in particular vocational rehabilitation (as has been repeatedly suggested by the hearing officer, and which the petitioner concedes is the primary basis of his need for the item), there is no compelling basis in either law or policy for the Board to consider the merits of his request vis-à-vis OVHA. 3 V.S.A. § 3091(a).

ORDER

The Department's decision is affirmed.

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